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APPLICATION NO.	FILIN	IG DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,899	11/03/2003		William C. Kimbrell	5657	4370
John E. Vick	7590	07/16/2007	·	EXAM	INER
Legal Department, M-495 PO Box 1926				JUSKA, CHERYL ANN	
	Spartanburg, SC 29304			ART UNIT	PAPER NUMBER
-				1771	-
•		,		MAIL DATE	DELIVERY MODE
		•	•	07/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)
		10/699,899	KIMBRELL ET AL.
	Office Action Summary	Examiner	Art Unit
		Cheryl Juska	1771
Period fo	The MAILING DATE of this communication app or Reply	pears on the cover sheet with the c	orrespondence address
VVHIC - Exter after - If NC - Failu Any	ORTENED STATUTORY PERIOD FOR REPL' CHEVER IS LONGER, FROM THE MAILING Donsions of time may be available under the provisions of 37 CFR 1.1 SIX (6) MONTHS from the mailing date of this communication. Period for reply is specified above, the maximum statutory period verse to reply within the set or extended period for reply will, by statute eply received by the Office later than three months after the mailing and patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be timwill apply and will expire SIX (6) MONTHS from a cause the application to become ARANDONE.	N. nely filed the mailing date of this communication.
Status			
2a) <u></u> □	Responsive to communication(s) filed on <u>26 A</u> This action is FINAL . 2b) This Since this application is in condition for allowar closed in accordance with the practice under E	action is non-final. nce except for formal matters, pro	
Dispositi	on of Claims	•	
5)□ 6)⊠ 7)□ 8)□ Applicati	Claim(s) 7.9-17,50 and 51 is/are pending in the 4a) Of the above claim(s) is/are withdraw Claim(s) is/are allowed. Claim(s) 7.9-17,50, and 51 is/are rejected. Claim(s) is/are objected to. Claim(s) are subject to restriction and/o on Papers The specification is objected to by the Examine	wn from consideration. r election requirement.	
10) 🗌	The drawing(s) filed on is/are: a) accomplicant may not request that any objection to the Replacement drawing sheet(s) including the correct The oath or declaration is objected to by the Explanation is objected to be the Explanation in the content of	epted or b) objected to by the Education of the Education of the drawing (s) be held in abeyance. See tion is required if the drawing (s) is obj	e 37 CFR 1.85(a). ected to. See 37 CFR 1.121(d).
Priority u	inder 35 U.S.C. § 119		•
a)[Acknowledgment is made of a claim for foreign All b) Some * c) None of: 1. Certified copies of the priority documents 2. Certified copies of the priority documents 3. Copies of the certified copies of the priority application from the International Bureausee the attached detailed Office action for a list	s have been received. s have been received in Application rity documents have been receive u (PCT Rule 17.2(a)).	on Nod in this National Stage
2) D Notice 3) D Inform	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO/SB/08) r No(s)/Mail Date	4) Interview Summary (Paper No(s)/Mail Da 5) Notice of Informal Pa	te

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DETAILED ACTION

Response to Amendment

- 1. Applicant's amendment filed April 26, 2007, has been entered. Claims 1-6, 8, and 18-49 have been cancelled. Thus, the pending claims are 7, 9-17, 50, 51.
- 2. The cancellation of claims 1-6, 8, and 18-49 renders moot the rejections set forth against said claims as set forth in the last Office Action (Non-Final Rejection mailed 08/10/06).
- 3. The prior art rejection based upon the cited Wang reference (US 5,908,663) in view of Fang reference (US 2005/0062010) as set forth in section 6 of the last Office Action is hereby withdrawn due to applicant's statement of co-assignment according to 35 USC 103(c) of the present application and the Fang secondary reference. However, the following rejections are maintained.
- 4. The examiner apologizes for any misunderstanding of the prior art rejections of the last Office Action. Specifically, the rejections were intended to be three separate rejections (i.e., (i) Wang in view of Fang, (ii) Wang in view of Rearick, and (iii) Wang in view of Fitzgerald). As such, the second and third rejections are not affected by the removal of the Fang reference. In light of the confusion over the rejection, the present Office Action is not made final.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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- 6. Claims 7, 9-11, 13-17, 50, and 51 stand rejected under 35 USC 103(a) as being unpatentable over US 5,908,663 issued to Wang et al. in view of US 2002/0064639 and/or US 2004/0058072, both issued to Rearick et al. as set forth in section 6 of the last Office Action.
- 7. Claims 7, 9-11, 13-17, 50, and 51 stand rejected under 35 USC 103(a) as being unpatentable over US 5,908,663 issued to Wang et al. in view of US 6,451,717 issued to Fitzgerald et al. as set forth in section 6 of the last Office Action.
- 8. Claim 12 stands rejected under 35 USC 103(a) is rejected over the cited Wang reference in view of the cited Rearick references as applied to claim 11 above and in further view of US 5,573,553 issued to McBride et al. as set forth in section 8 of the last Office Action.
- 9. Claim 12 stands rejected under 35 USC 103(a) is rejected over the cited Wang reference in view of the cited Fitzgerald reference as applied to claim 11 above and in further view of US 5,573,553 issued to McBride et al. as set forth in section 8 of the last Office Action.

Response to Arguments

- 10. Applicant's arguments filed with the amendment have been fully considered but they are not persuasive.
- 11. Applicant traverses the above rejection by arguing "while it may be possible to apply the treatment compositions of Wang to scoured carpeting, there appears to be no motivation in the primary reference itself for doing so" (Amendment, paragraph spanning pages 9-10). In response, it has been held that disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or nonpreferred embodiments. *In re Susi*, 440 F.2d 442, 169 USPQ 423 (CCPA 1971). "A known or obvious composition does not become

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patentable simply because it has been described as somewhat inferior to some other product for the same use." *In re Gurley*, 27 F.3d 551, 554, 31 USPQ2d 1130, 1132 (Fed. Cir. 1994) (The invention was directed to an epoxy impregnated fiber-reinforced printed circuit material. The applied prior art reference taught a printed circuit material similar to that of the claims but impregnated with polyester-imide resin instead of epoxy. The reference, however, disclosed that epoxy was known for this use, but that epoxy impregnated circuit boards have "relatively acceptable dimensional stability" and "some degree of flexibility," but are inferior to circuit boards impregnated with polyester-imide resins. The court upheld the rejection concluding that applicant's argument that the reference teaches away from using epoxy was insufficient to overcome the rejection since "Gurley asserted no discovery beyond what was known in the art." 27 F.3d at 554, 31 USPQ2d at 1132.).

12. Applicant also traverses on the grounds that the combined teachings of Wang and Rearick would teach away from the present invention (Amendment, page 10, 1st paragraph). Specifically, applicant asserts "cross linking between the applied cross-linkable fluorochemical and the fiber would likely be viewed as being inconsistent with the goal in the primary reference of Wang of avoiding degradation of the fabric hand" (Amendment, page 10, 1st paragraph). This argument is found unpersuasive since Rearick teaches the fluorocarbon-treated fabrics have a soft hand (Rearick '639, sections [0190], [0196], and [0222]). Therefore, the above rejections are maintained.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the

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examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CHERYLA. JUSKA PRIMARY EXAMINER